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Entry of the above-noted amendments and favorable reconsideration of the application are respectfully requested in view of the concurrent request for continued examination. Claims 1-3, 5-10, 15, 16, 19-30 and 42-46 are pending.

Applicant's arguments presented below focus on certain patentable differences between the invention as claimed and the applied references. However, it is not to be inferred that the failure to argue all differences between the claimed subject matter and the applied references constitutes acceptance of assertions made in the Office Action of alleged similarities between elements of the claimed subject matter and the applied references.

Claim 1

Claim 1 has similarities to previously present claim 15 which was rejected under 35 U.S.C. 103 as being unpatentable over Valentine (U.S. Patent No. 6, 356,547) in view of Garcia (U.S. Patent No. 5,566,239). This rejection is traversed.

MPEP §706.02(j) states: "To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaack, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)." Emphasis added.

Claim 1 recites a line card for a telecommunication system in which a multiple mode circuit is installed in equipment at a central office that provides at least one of POTS service and ISDN

service on a single subscriber line while concurrently providing one of a plurality of types of xDSL telecommunication service on said single subscriber line. The multiple mode circuit including a controller that receives the instructions from an external device with regard to the plurality of telecommunication services and configures the multiple mode circuit to operate said telecommunication services. The external device comprises one of a broad band element management system, a PSTN switch, and a PSTN maintenance center. The controller changes from a first type of xDSL telecommunication service to a second type of xDSL telecommunication service during an ongoing communication session of a subscriber on the single subscriber line with another party.

In the final Office Action the requirement of claim 15 regarding changing the communication session was rejected based on the teachings of Valentine at column 5, lines 1-43; column 6, lines 1-65; column 7, lines 10-44. Applicant has carefully reviewed each of the specified sections of text in Valentine. These sections teach that the DSP 66 is part of a reprogrammable architecture that can be reprogrammed to provide different services to a subscriber loop. The software algorithms that control the operation of the DSP 66 is contained in memory space 68. It is indicated at column 6, line 15-20, that a change in subscriber service is implemented by a corresponding change in the memory space 68 so that a different stored algorithm is utilized. In column 7, programmable frequency shift devices 106 are discussed.

Nothing in the relied upon sections of Valentine provide a teaching of limitations required by claim 1. In accordance with claim 1, the controller is capable of changing the configuration of subscriber services during an ongoing communication session from a first to a second type of xDSL services. An example of this is provided in the detailed description of the subject application. Although different services can be provided by Valentine, nothing in the relied upon text of Valentine teaches or suggests that a change in configuration of subscriber services is supported during an ongoing communication section. Therefore, prima facie grounds are not provided by Valentine in support of the 35 U.S.C. 103 rejection of claim 1.

One of ordinary skill in the art would understand that to change the control of DSP 66 in Valentine from a first software algorithm in memory 68 to another software algorithm would

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cause a disruption of an ongoing operation of the DSP during such a change, and that the disruption of the operation of the DSP would cause a corresponding disruption in ongoing communication service being provided by the DSP to a subscriber. That is, such a change could not be made during an ongoing subscriber communication session and still maintain the ongoing session. It is believed to be clear that the limitation of claim 1 is not taught by Valentine. Garcia is not relied upon with regard to this subject matter. Since none of the applied art teaches the limitation of claim 1, the 35 U.S.C. 103 rejection should be withdrawn.

Dependent claim 15 defines the controller as including means for receiving a signal from the subscriber during the ongoing communication session where the signal is a request for a change from the first type of xDSL telecommunication service to the second type of xDSL telecommunication service. Neither Valentine nor Garcia provides such a teaching.

Independent method claim 42 and dependent claim 43 are allowable for similar reasons explained with regard to claims 1 and 15, respectively.

In view of the above amendments and remarks, allowance of the subject application is respectfully requested. If a telephone conference would be of assistance in advancing the prosecution of this application, the Examiner is invited to call applicants' attorney.

Respectfully submitted,



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